Nos. 82-639, 82-655

Office-Supreme Court, U.S.
FILED
DEC 16 1982
ALEXANDER L. STEVAS,
CLERK

IN THE

Supreme Court of the United States

October Term, 1982

BOARD OF EDUCATION, CITY SCHOOL DISTRICT, ROCHESTER, NEW YORK, *et al.*,

Appellants,

against

EWALD B. NYQUIST, COMMISSIONER OF EDUCATION, *et al.*,

Appellees.

BOARD OF EDUCATION, LEVITTOWN UNION FREE SCHOOL DISTRICT, NASSAU COUNTY, *et al.*,

Appellants,

against

EWALD B. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, *et al.*,

Appellees.

Appeals from the New York Court of Appeals

MOTION TO DISMISS OR AFFIRM

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for Appellees
Two World Trade Center
New York, New York 10047
(212) 488-6770

PETER H. SCHIFF
Acting Attorney in Chief
Appeals and Opinions

AMY JUVILER
CLEMENT BERNE
Assistant Attorneys General
Of Counsel

TABLE OF CONTENTS

	PAGE
Statement of the Case	5
A. Financing Education in New York	5
B. Local Responsibility	5
C. State Aid	7
1. The Aid Ratios	7
2. Weighted Pupil Units	8
3. Aid to the Handicapped	9
4. BOCES Schools and Special Services Aid	11
5. Minimum Guarantees	11
6. Aid for Non-Operating Expenses	12
7. Categorical Aids	13
D. The Plaintiffs' Contentions	13
E. The Decision of the New York Court of Appeals	15
Argument—These Appeals Are Disposed of by This Court's Decision in *Rodriguez* and Do Not Present an Appropriate Context to Overrule Its Cogent Reasoning	18
A. *Rodriguez* Upheld Local Differences in Financing Schools, and Plaintiffs Present No Substantial Federal Question for Review	18
B. *Rodriguez* Should Not Be Overruled	21

PAGE

C. Even If This Court Were to Reconsider Its Holding in *Rodriguez*, This Would Be an Inappropriate Appeal in Which to Do So 23

1. Appellant School Districts Do Not Have Standing to Assert the Constitutional Rights of Children 23

2. Since Appellants Have Never Identified the Remedy They Seek, Or the Statutes They Attack, This Would Be an Inappropriate Case to Invalidate Comprehensive Legislation Which Provides Excellent Schooling for Millions of Children 24

3. The Conflicting Rulings Which the Two Sets of Appellants Seek Demonstrate the Reasonableness of New York's Educational Finance System 25

Conclusion 26

TABLE OF AUTHORITIES

PAGE

Cases:

Baker v. Carr, 369 U.S. 186 (1962) 22
Burruss v. Wilkerson, 397 U.S. 44 (1970) 22

Dunn v. Blumstein, 405 U.S. 330 (1972) 4, 25

Lindsay v. Wyman, 372 F. Supp. 1360 (S.D.N.Y. 1974), *aff'd sub nom. Beame* v. *Lavine*, 419 U.S. 806 (1974) 24

Matter of Board of Education v. City of New York, 41 N.Y. 2d 535 (1977) 6
McGowan v. Maryland, 366 U.S. 420 (1961) 22, 23
McInnis v. Oglivie, 394 U.S. 322 (1969) 22

Plyler v. Doe, —— U.S. ——, 50 U.S.L.W. 4650 (1982) ..... *passim*

Reed v. Reed, 404 U.S. 71 (1971) 23

San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973) ..... *passim*
Sierra Club v. Morton, 405 U.S. 727 (1972) 23
Simon v. Eastern Kentucky Welfare Rights Organization, 426 U.S. 26 (1976) 23

Village of Arlington Heights v. Metropolitan Housing Development Corporation, 429 U.S. 252 (1977) 23

Warth v. Seldin, 422 U.S. 490 (1975) 23
Weber v. Aetna Casualty & Surety Co., 406 U.S. 164 (1972) 23
Williams v. Mayor, 289 U.S. 36 (1933) 23

Constitutional Provisions:

Constitution of the United States
Amendment XIV ..... *passim*

PAGE

Constitution of New York State
Article I § 11 ..... 2, 15, 16, 18

Article VIII § 1 ..... 13, 25
§ 2 ..... 13, 25
§ 3 ..... 13, 25
§ 4(h) 13, 25
§ 8 ..... 13, 25
§ 10 ..... 7, 13, 25
§ 12 ..... 13, 25

Article XI 2, 25
§ 1 ..... 17, 25

Statutes:

28 U.S.C. § 1257(2) 3

New York Education Law
§ 701 12
Article 37 §§ 1501-2701 25
§ 1950 11
§ 2250 *et seq.* 6
§ 2576(9) 6
§ 3602 2
§ 3602(1) 9
§ 3602(1)(c) 7
§ 3602(1)(d) 10
§ 3602(2) 13
§ 3602(2)(b) 10
§ 3602(2-b) 8
§ 3602(3) 11
§ 3602(6) 12
§ 3602(9)(b) 10
§ 3602(12) 11
§ 3602(12)(e) 8
§ 3602(16) 8
§ 3602(17)(b) 11

PAGE

§ 3602(17)(d) 13
§ 3602(18) 12
§ 3602(19) 9, 13
§ 3602(20) 8
§ 3602(21) 10
§ 3602(23) 13
§ 4204b 10
§ 4357 10
Article 89 §§ 4405-4407 10

Family Court Act §§ 232-236 10

L. 1974 ch. 241 9
L. 1976 ch. 132 § 1 6
L. 1978 ch. 74 12
L. 1980 ch. 13 9
ch. 53 § 18 12
ch. 678 §§ 1-2 12
L. 1981 ch. 53 § 1 12
ch. 53 § 19 12
ch. 53 § 25 8
ch. 53 § 28 8
ch. 53 § 32 9
ch. 53 § 33 8
ch. 53 § 34 10
ch. 53 § 35 13
ch. 53 § 36 13
ch. 53 §§ 38-42 13

Rules and Regulations:

Rules of the Supreme Court
Rule 16.1(a) 1, 3
Rule 16.1(b) 1, 3, 4
Rule 16.1(c) 1
Rule 16.1(d) 1, 4
8 NYCRR 200.4(e)(3)-(4) 9

Other Authorities:

N.Y.C. Mayor's 1982 Budget Message, p. 2 19

Nos. 82-639, 82-655

IN THE

Supreme Court of the United States

October Term, 1982

BOARD OF EDUCATION, CITY SCHOOL DISTRICT, ROCHESTER, NEW YORK, *et al.*,

Appellants,

against

EWALD B. NYQUIST, COMMISSIONER OF EDUCATION, *et al.*,

Appellees.

BOARD OF EDUCATION, LEVITTOWN UNION FREE SCHOOL DISTRICT, NASSAU COUNTY, *et al.*,

Appellants,

against

EWALD B. NYQUIST, COMMISSIONER OF EDUCATION OF NEW YORK, *et al.*,

Appellees.

Appeals from the New York Court of Appeals

MOTION TO DISMISS OR AFFIRM

Appellees, the Commissioner of Education, the University, the Comptroller and the Commissioner of Taxation and Finance of the State of New York, move under Rule 16.1(a), (b), (c) and (d), of the Rules of this Court to dismiss two appeals from the same judgment of the New York Court of Appeals or, in the alternative, to affirm that judg-

ment. The Court of Appeals upheld "[t]he present amalgam of statutory prescriptions for State aid to local school districts . . ." as not violative of the Education Article of the New York State Constitution or of either the State or Federal Equal Protection Clauses. 57 N.Y. 2d 27, A1 *et seq.** Appellants in Appeal No. 639 are the Boards of Education of the Cities of New York, Buffalo, Rochester and Syracuse and certain students in those schools who have denominated themselves "city plaintiffs" (CJS 1**). In the trial court the city plaintiffs intervened in an action originally commenced by 27 school districts, which alleged that they were relatively poor in real property wealth, and by some students who attended school in those districts. Twenty-three† of those districts and twelve students by their parents and guardians are appellants in Appeal No. 82-655, and we will refer to them as "plaintiffs."

In the State courts, appellants attacked the system for financing education in New York. On this appeal, plaintiffs attack ". . . the manner in which New York State finances its public elementary and secondary schools" (PJS 1), while the city plaintiffs attack the Court of Appeals' judgment for ". . . finding no constitutional violation in the challenged statutory provision." "Provision" refers to all parts of New York Education Law (hereinafter, "Ed. L.") § 3602 reproduced in 53 pages of the Appendix at A331-A384.

---

* Appendices in both appeals are identical except for the covers.

** References to the Jurisdictional Statement in Appeal No. 82-639 are preceded by "CJS" and to the Jurisdictional Statement in No. 82-655, by "PJS."

† Except for the Levittown Board of Education, the names of appellants in No. 655 do not appear in the papers filed on this appeal.

The grounds for this motion are that jurisdiction under 28 U.S.C. § 1257(2) is improperly invoked (Rule 16.1[a], Rules of the Supreme Court) because:

(1) the only real parties-in-interest in this action are school districts who do not have standing to claim denial of equal protection of the laws;

(2) a decision in favor of appellants would require non-judicial policy determinations and application of non-judicial standards;

(3) the power of local school districts with different levels of real property wealth to tax and spend local revenues for the support of public schools is derived from the State Constitution and statutes not attacked by plaintiffs on this appeal.

Further grounds for this motion are:

(4) appellants do not present a "substantial federal question" (Rule 16.1[b], Rules of the Supreme Court), since the classification attacked is traditional local governmental boundaries;

(5) for that reason, the judgment also rests on an adequate non-federal basis (Rule 16.1[b], Rules of the Supreme Court), since the powers and duty of local governments to participate in supporting public education in New York State is a matter of State law and has been upheld by the decision of the highest Court in the State.

(6) especially since this Court's landmark decision in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973) (hereinafter "*Rodriguez*")

disposes of these appeals, there is no substantial federal question (Rule 16.1[b], Rules of the Supreme Court) and "... the questions on which the decision of the cause depends are so insubstantial as not to need further argument." Rule 16.1(d), Rules of the Supreme Court.

In any event, these would be inappropriate appeals (Rule 16.1[d], Rules of the Supreme Court) in which to reconsider *Rodriguez* for the reasons already cited, and also because:

(7) New York State provides more spending per pupil even in the *poorest* district than all but two other States provide on the *average;*

(8) plaintiffs' claim that the State has a duty to eliminate among school districts differences in real property wealth per pupil is in conflict with the city plaintiffs' claim that real property wealth per pupil is an unfair measure of school district wealth; and

(9) since both sets of plaintiffs have steadfastly refused to propose a remedy which would meet their constitutional claims, the record does not support a contention that there are "less drastic means"* for effectuating the State's objective of supporting local public schools.

---

* *Dunn* v. *Blumstein*, 405 U.S. 330, 343 (1972). Also see, *e.g.*, *Rodriguez, supra*, 411 U.S. at 17.

Statement of the Case

A. Financing Education in New York

The system which plaintiffs claim is unconstitutional is the one in the nation that has consistently provided the most money for public school students. Only Alaska spends more than New York's average, $3,467 per student. Appellees' Appendix* p. 2. Even a student in the poorest school district in New York, Salmon River, has more ($2,981) spent on him than the *average* student in any other State but Alaska and New Jersey. *Id.;* CAA 6771.** State aid accounted for $2,334 for each enrolled pupil in Salmon River. CAA 6771. The remarkable fiscal strength of New York's system is based on the combination of two voluntarily appropriated revenue sources: (a) general revenues from State income, sales and business taxes and (b) locally imposed taxes on real property. The State's appropriation for public, primary and secondary education is the largest item in the State budget and is distributed mostly to districts with relatively less real property wealth per pupil. The local contribution per pupil, highest in the United States, is determined by the vote of local residents.

B. Local Responsibility

Local school boards and their professional administrative staff determine the level of funding for education, as

* Attached as a two-page appendix to this motion are pages 34 and 36 of the National Education Association's Estimates of School Statistics, 1980-81, which were submitted to the New York Court of Appeals. Similar inter-state statistics are part of the record on appeal in the State courts.

** Numbers preceded by "CAA" refer to pages in the Appendix filed in the New York Court of Appeals.

well as the distribution of funds among schools, among students and among educational goals. They also control curriculum within wide parameters established by the State Legislature. The Court of Appeals held that there was no evidence "that the educational facilities or services provided in the school districts that they [appellants] represent fall below the State-wide minimum standard of educational quality and quantity fixed by the Board of Regents . . ." 57 N.Y. 2d 27 at 39, A12.

Except in the big five cities (city plaintiffs and Yonkers), school boards recommend the annual budget for the approval of the voters. They estimate State financial aid for the year, Federal aid and other receipts which may be from a number of sources including county appropriations. The differences between these receipts and the budget adopted by the voters is the local tax levy, which, in turn, establishes the rate of taxation on the district's real property.

In the case of the big five cities, appropriations are made as part of the annual budget process. Ed. L. §§ 2250 *et seq.* All revenues are received by the general city treasuries and, unless limited to special purposes, may be used by the cities for any governmental function. Local tax receipts, including those derived from taxes on local property, also are paid into the cities' general funds. Only Rochester, however, dedicates a fixed yield of the real property levy to the support of public schools. Increases in State education aid after 1976 must be spent for school purposes. L. 1976 ch. 132 § 1; Ed. L. § 2576(9); *Matter of Board of Education* v. *City of New York,* 41 N.Y. 2d 535 (1977).

C. State Aid

State aid to local school districts also is appropriated annually. The statutory formulae often are adjusted as part of the annual budget bill (ch. 53) to address problems raised by districts and their representatives and to effect basic policy changes.

1. The Aid Ratios

Operating aid is distributed in inverse relationship to taxable wealth in a two-tier formula based on aid ratios. The first tier guarantees that the State will share up to a ceiling of $1,650 per pupil of the district's operating expense for schools. A district of average wealth will receive 49% of the approved costs up to the ceiling. Districts above the State average per-pupil wealth will be reimbursed for a smaller percentage of their expense, and districts below the average, for a larger percentage. The district of average wealth last year had a full valuation per pupil of $72,700. An aid ratio means that the tax rate* necessary to raise the local share of the ceiling is the same for each district. It is determined by what the average district needs to raise $841.50 per pupil (51% of $1,650) which last year was $11.57 for $1,000 full value (11.57 "mills"). The median tax rate was 21.53 mills. If the average value of real property continues to rise, the tax rate necessary to raise the local share will decrease. The second tier operates the same way except that it is

* Full or actual value of real property ("full value") is defined by Constitution (Art. VIII, § 10) and statute (Ed. L. § 3602[1][c]) which require that the State equalization rate be applied to a district's assessment rolls. It is conceded to be an accurate comparative measure for districts with different assessment practices. In this motion, when we refer to tax rates, we refer to the tax on assessed value multiplied by the equalization rate—"full value tax rate."

related to income and guarantees an equalized amount of $235. Ed. L. § 3602(12)(e); L. 1981 ch. 53 § 25. The district of average wealth per pupil ($29,700 in 1981-1982) receives 20% of $235. Every district can raise more than $1,885 by imposing a higher tax rate.

High tax aid is paid to districts with property wealth lower than the State average and local tax rates of at least 20 mills. Twenty-four of the thirty original plaintiff districts receive aid under this provision. Ed. L. § 3602(16); L. 1981 ch. 53 § 28. Lower income supplemental aid of $27.7 million is also provided. Ed. L. § 3602(20); L. 1981 ch. 53 § 33, IFF 2-A(c), A6492.

2. *Weighted Pupil Units*

District wealth is measured per pupil and State aid is distributed per pupil; but those "pupils" are not individuals. They are pupil constructs—TWPU (total wealth pupil units) for the wealth measure and TAPU (total aidable pupil units) for aid distribution. There are more constructs than enrolled pupils. These constructs reflect the number of pupils attending school in average daily attendance (ADA), Ed. L. § 3602(2-b), and several weightings.

An additional 0.25 weighting is given to a district for each of its secondary school pupils in grades seven through twelve. This amounts to $471.25 or a total of $2,356.25 guaranteed for each such student.

All districts receive an additional 0.25 weighting to their pupil count for each student with special educational

needs ("PSEN"). The proportion of such pupils in a district is identified by use of math and reading achievement tests given in the third and sixth grades (Pupil Evaluation and Placement or "PEP" tests). The proportion of students in the bottom three stanines (centiles) on this combined test in 1974 and 1975 is applied to the entire school district population each year to determine the number of pupils aidable as educationally disadvantaged in that district. L. 1974 ch. 241; Ed. L. § 3602(1); A4821-A4826, A4838. According to this formula each district is guaranteed an extra $471.25 or a total of $2,356.25 for each PSEN student in the sixth grade or lower. PSEN pupils in secondary grades are guaranteed an additional weighting of 0.5 or $942.50 each, a total of $2,827.50 for such a pupil. This mode of assistance reimburses for concentrations of disadvantaged students.

3. Aid to the Handicapped

Substantial additional weightings are also added for handicapped students on the basis of services needed. If they need special class placement for 60% of the day or out-of-school instruction for at least sixty days a year, they receive an additional 1.7 weighting each. An extra 0.9 weighting is accorded to students needing special services 20% or more of their time. If such students need as little as two periods a week of special instruction, they are weighted an additional 0.13. Determinations of the services needed are made by the local Committee on the Handicapped. Ed. L. § 3602(19); L. 1981 ch. 53 § 32; L. 1980 ch. 13. Also see 8 NYCRR 200.4(e)(3)-(4).

Districts are reimbursed for their actual expenses over the operating aid ceiling of $1,885 within a minimum and

maximum which were established by a cost survey (Excess Cost Aid) which is adjusted each year. Ed. L. § 3602(1)(d), (2)(b), (9)(b). For the 1.7 weighted student, the district received an additional amount of from $2,805 to $3,910 last year. If it spent at least $5,795 on such a child, the district was guaranteed that much for his or her education. For the 0.9 weighted student, the district received an additional amount of from $1,485 to $2,070. If it spent at least $3,955 on such a child, the district was guaranteed that much for his or her education. For the 0.13 weighted student, the district received an additional amount of from $214.50 to $299. If it spent at least $2,184 on such a child, the district was guaranteed that much for his or her education.

For handicapped children in exceptionally expensive programs (ones that cost at least $10,000 or four times the expense of a handicapped child in that district) additional aid ratio assistance is paid. The State also aids the diagnosis of educational needs for each student in the primary grades. Ed. L. § 3602(21); L. 1981 ch. 53 § 34.

As tuition for their blind or deaf children being educated at State-run schools, districts are required to pay an amount equal to the locally raised share of their per-pupil operating aid for an unweighted student. Ed. L. §§ 4204b, 4357. Tuition at privately run schools, for students for whom the school district or BOCES cannot provide the necessary education, is paid on an aid-ratio basis. Ed. L. Art. 89 §§ 4405-4407; Family Court Act §§ 232-236.

4. BOCES Schools and Special Services Aid

Most school districts in the State use the services of regional schools run by State Boards of Cooperative Educational Services (BOCES). They provide specialized education such as occupational education or education for persons with various handicaps. The residential district pays tuition based on actual costs. The district receives aid as if the students were educated within the home district, except in the case of occupational education. For such students districts receive additional aid according to either of two formulae. The first is an aid ratio in inverse relationship to real property wealth. The second is a tax effort formula in which districts are assisted by reference to their full value tax. Thus, all districts with the same tax rate receive the same aid, if they choose the second alternative. To the extent that BOCES tuition is greater than the costs allowed, as is frequently the case, this difference is paid entirely out of local funds. Ed. L. § 1950. Regional organization is largely irrelevant to the large cities. They receive extra assistance for vocational education pursuant to an aid ratio based on an extra amount of $1,650 per pupil. Ed. L. § 3602(17)(b).

5. Minimum Guarantees

Under the aid ratio, districts with a full value of more than $142,549 per pupil and per pupil income wealth of more than $37,125 would receive no aid, but the statute guarantees that no district will receive less than $360 per pupil—the "flat grant". Ed. L. §§ 3602(3), (12), A6437. In 1981-1982, the total dollar amounts attributable to flat grant aid dropped to $92.5 million—only 3.1% of the total

operating aid distributed—and, excluding the flat grant aid going to New York City of $51.2 million—only 1.4% of the State total for operating aid.

There are two options under the Education Finance Law available to a district experiencing rapidly rising real property values or decreasing population to allow it to receive the aid it received the previous year. L. 1980 chs. 53 § 18, 678 §§ 1-2; Ed. L. § 3602(18). Under the first—"special aid"—each district is entitled to receive an increase of 8% per pupil as long as it does not exceed the total it received the prior year. Under the second—district-wide, or "total dollar save harmless"—each district is guaranteed the same total aid it received in the previous year. In the 1981-1982 school year, the additional amount of State aid paid through save-harmless and special aid was $90.36 million, only 3% of operating aids.

6. Aid for Non-Operating Expenses

The State also assists districts to meet non-operating expenses. Aid for approved capital expenditures is distributed in inverse proportion to a district's wealth in real property. Ed. L. § 3602(6). Districts are reimbursed for up to $15 per resident pupil for textbooks. Ed. L. § 701; L. 1978 ch. 74. The State pays 90% of the costs of transporting students one-and-one-half miles or more to school. L. 1981 ch. 53 § 19. Provision has been made to assist school districts with the removal of unsafe asbestos with 40% of the aid going to New York City. L. 1981 ch. 53 § 1.

7. Categorical Aids

The Legislature grants assistance for the gifted and talented (Ed. L. § 3602[23]; L. 1981 ch. 53 § 36) and $4.06 million for students with limited English proficiency. Ed. L. § 3602(2). L. 1981 ch. 53 § 35.

Several categorical aids are directed solely to the big five cities: Electronic data processing assistance (Ed. L. § 3602[17][d]); Reading and Academic Program aid of $20.25 million (L. 1981 ch. 53 §§ 38-42); and $10 million for Incentives for Improving Pupil Performance (Ed. L. § 3602[19]).

D. The Plaintiffs' Contentions

Existing State aid statutes address virtually all of the problems raised by the plaintiffs, but according to them, State aid does not go far enough. With two exceptions, flat grant and save-harmless, State aid ameliorates the inequities of which they complain in that it is provided to districts in inverse relationship to their taxable wealth. Plaintiffs complain that the aid does not completely compensate for the freedom of districts to raise local funds for education when their taxable resources are not equal. Thus, since under the New York Constitution (Article VIII §§ 1, 2, 3, 4[h], 8, 10, 12) districts with great real property wealth are free to impose substantial tax rates to benefit local schools and even districts with low wealth are free to impose low tax rates, there can be and are differences in expenditure on education. It is the freedom of local governments that plaintiffs would compromise.

The city plaintiffs also do not attack the contents of the State aid statutes except in certain limited respects

such as counting children on the basis of attendance, rather than enrollment. Extra aid per pupil is given for disadvantaged, handicapped, bilingual and vocational students, and categorical aids which benefit urban youngsters are provided. The city plaintiffs' main thrust is against what is not in the statutes, rather than what is provided. They contend that their non-educational expenditures must be considered in evaluating their real property wealth, that they must be compensated because they pay more for education, and that per-pupil aids for handicapped and disadvantaged students are not sufficient to compensate the cities for their concentrations of those students.

Appellants' attacks would actually threaten the level of resources available to educate children by depreciating the use of a productive revenue source, by diverting educational aid to compensate for non-educational expenditures and by interfering in a legislative process that has produced excellent levels of spending on pupils: (a) Although almost $6 billion for public education is presently raised by voluntarily-imposed local real property tax, the plaintiffs' argument threatens the freedom of local school districts to tax themselves because the real property wealth in the several school districts is not the same. (b) The city plaintiffs argue that the Fourteenth Amendment requires States to use educational aid to reimburse cities for the non-educational expenditures in "municipal overburden" aid and as compensation for cost-of-living differentials. (c) Both arguments would upset the delicate legislative balancing which has produced the highest levels of expenditures on public education in the country. Moreover, they would do so without demonstrating that there is an alternative system that would meet all their claims based on

feasible revenue sources and that would actually benefit a significant number of children substantially enough to justify the harm it would do to others.

E. The Decision of the New York Court of Appeals

The State Court of Appeals recognized New York's consistent commitment to education as its highest priority for public expenditures; but it also recognized that local control of education in the State had resulted in disparities in levels of expenditures. It, nonetheless, held that there was no violation of the Federal or State (Article I § 11) Equal Protection Clauses or of the State Education Article (Art. XI).

As had been consistently acknowledged throughout this action, the Court found that the plaintiffs' claims under the Fourteenth Amendment were precluded by this Court's decision in *Rodriguez*. 57 N.Y. 2d at 41, A15. The Court of Appeals held that the same analysis defeated the city plaintiffs' claims since the inequalities to which they referred were ". . . the product of demographic, economic, and political factors intrinsic to the cities themselves, and cannot be attributed to legislative action or inaction. . . ." *Id.*

> "The disbursement of the funds received from real estate taxes and such other sources and the decisions as to how they shall be allocated are decisions to be made by municipal governmental bodies. In the words of Justice HOPKINS [in his dissent to the opinion of the Appellate Division of the Second Department in this case]: 'It is beyond the power of this court in this litigation to determine whether the appropriations of the intervenor-plaintiffs have been wisely directed or rea-

> sonably applied, or whether their budgets are fairly divided in terms of priority of need between the competing services, such as police, fire, health, housing and transportation, and it is, equally, beyond the power of the court to determine whether the resources of the intervenor-plaintiffs can otherwise be employed so that their educational needs can be met.' (83 AD2d 217, 262) . . ." 57 N.Y. 2d at 42, A16.

On the same grounds the city plaintiffs' Equal Protection claims under the State Constitution were also rejected. 57 N.Y. 2d at 47, A21.

The fact that legislation deals with education does not make it suspect or presumptively unconstitutional, even under the State's Equal Protection Clause, the Court reasoned. The State Constitution which requires public education is unlike the Federal Constitution, since it includes many declarations of power and authority which have no claim to special consideration under the Equal Protection Clause. 57 N.Y. 2d at 43 n.5, A17. Of great importance to the State Court, as to this Court in *Rodriguez*, was the fact that no classification based on personal characteristics was involved.

Relying on this Court's decision in *Rodriguez* as persuasive authority for its interpretation of the parallel State provision, the Court held ". . . the preservation and promotion of local control of education—is both a legitimate State interest and one to which the present financing system is reasonably related." 57 N.Y. 2d at 44, A18.

Plaintiffs' disputes with two particulars of State aid—flat grant and save-harmless (see pp. 11-12, *ante*)—were

rejected partly because they affect only a minimal amount of aid. The Court also noted that the flat grant was not unequal and that save-harmless provisions protect districts from the effect of changing property values or diminished pupil registration. 57 N.Y. 2d at 46-47, A20-A21.

Contrary to the city plaintiffs' assertion that they proved a denial of educational opportunity, the Court of Appeals held:

> " 'No claim is advanced in this case, that the educational facilities or services provided in the school districts that they represent fall below the State-wide minimum standard of educational quality and quantity fixed by the Board of Regents; their attack is directed at the existing disparities in financial resources which lead to educational unevenness above that minimum standard.' "

Holding that the Legislature had provided a sound basic education for the children of the State, the Court of Appeals found the mandates of Article XI § 1 had been met. It rejected the city plaintiffs' contention that their students were denied a minimum education. 57 N.Y. 2d 38, 48, A12, A22. The constitutional prescription (Article XI § 1) of a "system of free common schools" does not mandate equality of expenditures. The language and the legislative history were found to foster the pluralistic system which has always existed in New York. 57 N.Y. 2d at 47-49, A21-A23.

Like this Court in *Rodriguez*, the Court below carefully confined itself to an appropriate judicial role. It consciously refused to intrude into the arena of substantive policy determinations which are the responsibility of the politically elected branches of government. 57 N.Y. 2d at 39-40, 43, 50 n.9, A12-A13, A16, A23.

ARGUMENT

These Appeals Are Disposed of by This Court's Decision in *Rodriguez* and Do Not Present an Appropriate Context to Overrule Its Cogent Reasoning.

A. *Rodriguez* Upheld Local Differences in Financing Schools, and Plaintiffs Present No Substantial Federal Question for Review.

In its landmark decision upholding the Texas system of educational finance, this Court recognized the general application of its analysis to other state educational finance systems. 411 U.S. at 17-19, 23, 26 n.62, 28-29, 37, 42-44, 47-49, 55-59. In *Rodriguez,* the plaintiffs attacked Texas law, claiming that it discriminated against poor, minority students in low wealth districts; but this Court held the system to be reasonably related to the state goals of providing a minimum education while promoting local control. 411 U.S. at 5, 12-13, 39, 40-55. It rejected the contention that distinctions based on school district wealth were suspect classifications. 411 U.S. at 18-25, 53-55. Indeed, differences between local governmental units are presumptively valid. 411 U.S. at 27-28, 50-53.

This Court also denied that education was a fundamental right under the Equal Protection Clause. 411 U.S. at 29-37. This was especially so since the right asserted did not involve freedom from governmental intrusion.* 411 U.S. at 38-39. It also noted that only a relative, not absolute, deprivation of education was alleged. 411 U.S. at 29-25,

* New York's guarantee of a system of free common schools concededly mandates governmental intrusion. In this situation, suspicious scrutiny of State legislation is illogical.

37. Compare *Plyler* v. *Doe*, —— U.S. ——, 50 U.S.L.W. 4650, 4651, 4655-4657 (1982). The Court warned that State statutes would not be invalidated because all desirable provisions were not included and all evils were not struck down. 411 U.S. at 39. The application of that familiar precept alone disposes of these appeals.

In rendering its thoughtful decision, this Court carefully kept within the bounds of the Federal judicial power, refusing to enter the political arena to change state policies with which it might disagree. 411 U.S. at 31, 33, 40-44, 56-59. Also see Stewart, J., concurring. 411 U.S. at 59-61.

The city plaintiffs' assertion that their claims are stronger than those of the plaintiffs in *Rodriguez* is puffery, not reason. In the first place, all the plaintiffs in *Rodriguez* were poor, minority students residing in property-poor districts. 411 U.S. at 5, 19. The city plaintiffs' case is weakened by the fact that they are school districts, not individuals with Fourteenth Amendment rights; by the fact that the districts are not poor in taxable wealth; by the fact that the students, named as plaintiffs, about whom not one word of evidence was adduced, do not even allege that they are uneducated or poor; and by the fact that the Texas system did not distribute most aid in inverse relation to real property wealth, although local revenues were obtained solely from that source. 411 U.S. at 10, 13-14.

New York City in 1981-82, had more real property wealth per-pupil ($75,926 [Appendix in New York Court of Appeals A6804]) than the average district in the State. It also received 75% of its revenues from sources other than property taxes. N.Y.C. Mayor's 1982 Budget Message at

p. 2. Yet it claims that it does not have sufficient resources to educate its students. This does not compare* favorably with the plaintiffs in *Rodriguez* who were pupils in the Edgewood School District of San Antonio, Texas, which had $5,960 in real property per pupil and 96% minority students in its city school district. 411 U.S. at 12. The State of Texas contributed $222 per pupil [*Id.*] while New York pays more than $1300 to New York City (Appendix in Court of Appeals A6806). However, the former level of funding was such that last term this Court found that there was "no dire shortage of educational resources" in Texas (*Plyler, supra,* 50 U.S.L.W. at 4657 n.25) in a suit brought by Hispanic children to attend school in districts like Edgewood. The decision of the New York Court of Appeals that a minimum education was provided to all New York pupils (57 N.Y. 2d at 38, 48, A12, A22) does not go beyond this Court's holding in *Rodriguez* and *Plyler*.

That the city plaintiffs proposed some ideas for formulae which would increase their State aid does not distinguish this Court's decision in *Rodriguez* which, quoting *Katzenbach* v. *Morgan,* 384 U.S. 641, 657, held:

> " 'a "statute is not invalid under the Constitution because it might have gone farther than it did," [*Rosen* v. *Ward,* 279 U.S. 337, 339] that a legislature need not "strike at all evils at the same time," [*Semler* v. *Dental Examiners,* 294 U.S. 608, 610] and that "reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind [*Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 489]" ' ". 411 U.S. at 39.

* While this comparison spans a decade, time alone cannot account for the differential. In 1980-81, the average expenditure per pupil in Texas, 45th in the nation, was still about half of New York's. Appellee's Appendix, p. 2.

B. *Rodriguez* Should Not Be Overruled.

This Court's decision in *Plyler* v. *Doe, supra,* does not undermine the wisdom of *Rodriguez,* which it cites as authority and which has repeatedly been relied on by this Court and all courts of this country since it was rendered. The difficulty in *Plyler* arose because undocumented alien children are innocent of the knowing commission of the crime of illegal immigation, which set them apart from others under Texas law. 50 U.S.L.W. at 4655-4656. While education is not a fundamental right (50 U.S.L.W. at 4656), it is important and the absolute deprivation of an education may stigmatize the child for life. 50 U.S.L.W. at 4655-4657.

This Court held that illegal aliens were "persons" entitled to the protection of the Fourteenth Amendment (50 U.S.L.W. at 4652-4654) and applied traditional Equal Protection analysis, citing *Rodriguez* as authority. 50 U.S. L.W. at 4655-4656. It measured this quasi-suspect classification in the context of absolute deprivation of an education and found the statute irrational. 50 U.S.L.W. at 4654, 4656. This same analysis had already demonstrated that the method of financing those Texas schools to which the *Plyler* children so desperately sought access was not invalid. *Rodriguez, supra.*

The separate concurrence of Justice Powell demonstrated that the holding in *Plyler* is consistent with *Rodriguez* because the classification in *Plyler* was based on a personal characteristic not controlled by innocent children

and was therefore subject to heghtened scrutiny. 50 U.S. L.W. at 4660. The separate concurrence of Justice Blackmun reiterates his support for the holding in *Rodriguez,* but would treat education as a relatively more fundamental right (50 U.S.L.W. at 4658-4659), although he recognized the problem of expanding the concept of fundamental right in Equal Protection cases. 50 U.S.L.W. at 4658. For purposes of this motion, Justice Blackmun's reiteration of the holding in *Rodriguez* would support dismissal of this appeal.

The dissent also relies on the *Rodriguez* analysis. Only Justice Marshall, in concurring, continues to assert that educational statutes must be subjected to strict scrutiny. 50 U.S.L.W. at 4657-4658.

The holding in *Rodriguez,* relying as it does on fundamental principles of separation of power, on federalism and on the employment of neutral judicial standards, is a powerful statement of this Court's consistent position. It echoes the eloquence of former Chief Justice Warren as to the inherent reasonableness of differences based on local governmental boundaries, *McGowan* v. *Maryland,* 366 U.S. 420 (1961), and the proper role of this Court, *Baker* v. *Carr,* 369 U.S. 186, 217 (1962). Indeed the Court which he headed twice summarily affirmed decisions upholding state educational finance systems against attack under the Fourteenth Amendment. *Burruss* v. *Wilkerson,* 397 U.S. 44 (1970); *McInnis* v. *Oglivie,* 394 U.S. 322 (1969).

C. Even If This Court Were to Reconsider Its Holding in *Rodriguez*, This Would Be an Inappropriate Appeal in Which to Do So.

Even if *Rodriguez* were not a decision of such broad application, the core of its holding on State educational finance systems must be sustained for the reasons already cited. Therefore if this Court were to employ an intermediate measure of validity under the Equal Protection Clause, that should be applicable only to quasi-suspect classes like those based on gender, as in *Reed* v. *Reed*, 404 U.S. 71 (1971), or undocumented alien children, as in *Plyler, supra*, or illegitimacy, as in *Weber* v. *Aetna Casualty & Surety Co.*, 406 U.S. 164 (1972).

1. Appellant School Districts Do Not Have Standing to Assert the Constitutional Rights of Children.

The only real parties in interest in this proceeding have been school districts. As political subdivisions of the State they have neither equal protection rights, *McGowan* v. *Maryland*, 366 U.S. 420, 427 (1961), nor standing to challenge the constitutionality of State legislation in federal court, *Williams* v. *Mayor*, 289 U.S. 36, 40, 47-48 (1933). While children are named as tokens (compare *Village of Arlington Heights* v. *Metropolitan Housing Development Corporation*, 429 U.S. 252, 263-264 [1977]), not one iota of evidence about any of them was introduced. There are inherent conflicts between children and their districts at least on intra-district distribution of funds. Therefore, plaintiffs' lack of standing in this case is even clearer than was the case in *Sierra Club* v. *Morton*, 405 U.S. 727 (1972). Also see *Simon* v. *Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976); *Warth* v. *Seldin*, 422 U.S. 490 (1975).

An example of such a conflict is the cities' municipal overburden theory, which is based on the proposition that education is the cities' lowest priority. *All* other municipal expenditures are claimed to be inexorable, and they say that only residual amounts are available for education. Although the cities do not even allege that they direct proportionally more of their resources to their poor, disadvantaged, Black or Hispanic students, they demand State aid just for having to cope with them. Yet, New York City, with 30% of the State's school children, failed to take full advantage of State aid to the handicapped. In general, all New York school districts order the priorities and appropriate resources among children and programs (see 57 N.Y. 2d at 41-42, A15-A16) and thus have an interest in this action which is different from the students. School districts seek to shift resources to themselves, but the apportionment of finances among local governments is not governed by the Fourteenth Amendment. See *Lindsay* v. *Wyman*, 372 F.Supp. 1360 (S.D.N.Y. 1974), *aff'd sub nom. Beame* v. *Lavine*, 419 U.S. 806 (1974).

2. *Since Appellants Have Never Identified the Remedy They Seek, Or the Statutes They Attack, This Would Be an Inappropriate Case to Invalidate Comprehensive Legislation Which Provides Excellent Schooling for Millions of Children.*

Plaintiffs have consistently refused defendants' demand to identify a fiscally feasible system which would meet constitutional mandates and would benefit the students in the districts they represent. Aside from the suggestion of non-justiciability, which the absence of a remedy implies, it also renders a claim for heightened scrutiny under the Equal Protection Clause impractical. Plaintiffs cannot

assert that there is a "less drastic means" (*e.g. Dunn* v. *Blumstein*, 405 U.S. 330, 343 (1972); *Rodriguez, supra*, 411 U.S. at 17), when they refuse to identify one.

Appellants do not even identify the statutory pronouncements which they wish to have declared unconstitutional. They merely append more than 50 pages of the State aid law (A331 *et seq.*) without identifying particular defts. Furthermore, this statute does not empower the local districts to tax and support education. Compare N.Y. Const. Art. VIII §§ 1, 2, 3, 4(h), 8, 10, 12; N.Y. Ed. L. Article 31 (§§ 1501-2701). This is an inappropriate posture from which to demand the solemn act of invalidation of legislation entitled to the presumption of validity.

3. The Conflicting Rulings Which the Two Sets of Appellants Seek Demonstrate the Reasonableness of New York's Educational Finance System.

While plaintiffs assert that New York's educational finance system permits too great disparities in real property wealth per pupil among school districts, the city plaintiffs criticize the system for the opposite—weighing State aid too heavily for property poor districts when the cities have other serious problems. These two conflicting claims inadvertently demonstrate that the system actually is fair. It compensates for lack of real property wealth without eliminating the local control or fiscal participation of school districts. It does give additional weighting to disadvantaged and handicapped children, as well as other urban aids. However, it is a pluralistic system, *Rodriguez*, 411 U.S. at 50, which delivers aid so that ". . . all the children of this State may be educated." (N.Y. Const. Article XI § 1).

Although New York is proud of its leadership in education, it is not the defendants' position that the present system is perfect. The legitimate interests that it addresses are so varied, changing, interrelated with other legitimate interests, and subject to competing demands in the face of finite resources, that the concepts of perfection, or "less drastic means" (*Rodriguez*, 411 U.S. at 42) are not relevant. But institutional democratic methods for improvements are continuously utilized. In this as in other states the social "laboratories" for educational finance are at work. *Rodriguez*, 411 U.S. at 50. The State Legislature has the awesome and exclusive responsibility for addressing such needs. The Legislature's actions, even if controversial, deserve this Court's respect so long as there is no invidious discrimination.

Conclusion

Upon the Foregoing, This Appeal Should Be Dismissed, or the Judgment Below Affirmed.

Dated: New York, New York
December 16, 1982

Respectfully submitted,

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for Appellees

PETER H. SCHIFF
Acting Attorney in Chief
Appeals and Opinions

AMY JUVILER
CLEMENT BERNE
Assistant Attorneys General
Of Counsel

TABLE 9.--ESTIMATED REVENUE AND NONREVENUE RECEIPTS, 1980-81**

REGION AND STATE	REVENUE RECEIPTS BY SOURCE (IN THOUSANDS) FEDERAL	STATE	LOCAL AND OTHER	TOTAL	PERCENT OF REVENUE RECEIPTS BY SOURCE FEDERAL	STATE	LOCAL AND OTHER	NONREVENUE RECEIPTS (IN THOUSANDS)	TOTAL RECEIPTS (COLS. 5 AND 9) (IN THOUSANDS)
1	2	3	4	5	6	7	8	9	10
50 STATES AND D.C.	$9,158,148	$50,798,376	$42,311,193	$102,267,717	9.0	49.7	41.4	$4,388,914	$106,656,631
NEW ENGLAND	413,886	2,263,616	3,591,504	6,269,006	6.6	36.1	57.3	57,728	6,326,734
CONNECTICUT	87,801	525,251	912,448	1,525,500	5.8	34.4	59.8	16,000	1,541,500
MAINE	43,200	233,000	200,800	477,000	9.1	48.8	42.1	15,000	492,000
MASSACHUSETTS	228,411	1,262,740	1,774,041	3,265,192	7.0	38.7	54.3	0	3,265,192
NEW HAMPSHIRE	17,073	25,000	331,509	373,582	4.6	6.7	88.7	20,578	394,152
RHODE ISLAND	24,000	158,600	226,700	409,300	5.9	38.7	55.4	800	410,100
VERMONT	13,401	59,025	146,006	218,432	6.1	27.0	66.8	5,350	223,782
MIDEAST	1,331,987	9,170,671	11,434,894	21,937,552	6.1	41.8	52.1	528,229	22,465,781
DELAWARE	40,000	210,700	68,400	319,600	12.6	66.0	21.5	5,000	323,600
MARYLAND	160,987	[illegible]	1,120,094	2,124,832	7.6	39.7	52.7	15,529	2,140,361
NEW JERSEY	150,100	1,630,800	2,354,800	4,135,700	3.6	39.4	56.9	27,500	4,163,200
NEW YORK	465,000	3,955,000	5,000,000	9,420,000	4.9	42.0	53.1	300,000	9,720,000
PENNSYLVANIA	478,100	2,530,900	2,615,300	5,624,300	8.5	45.0	46.5	180,200	5,804,500
DIST. OF COLUMBIA	37,800	...	276,300	314,100	12.0	...	88.0	...	314,100
SOUTHEAST	2,437,226	11,026,802	5,906,754	19,370,782	12.6	56.9	30.5	707,877	20,078,659
ALABAMA	145,000	844,577	215,000	1,204,577	12.0	70.1	17.8	37,000	1,241,577
ARKANSAS	114,387	424,794	246,806	785,987	14.6	54.0	31.4	23,597	809,584
FLORIDA	300,000	2,000,000	1,150,000	3,450,000	8.7	58.0	33.3	130,000	3,580,000
GEORGIA	265,686	1,138,437	654,777	2,058,900	12.9	55.3	31.8	47,006	2,105,906
KENTUCKY	155,000	935,000	237,000	1,327,000	11.7	70.5	17.9	60,000	1,387,000
LOUISIANA	230,000	851,000	460,000	1,541,000	14.9	55.2	29.9	63,000	1,604,000
MISSISSIPPI	206,858	495,825	195,886	858,569	24.1	57.1	22.8	25,423	883,992
NORTH CAROLINA	299,768	1,464,773	475,000	2,239,541	13.4	65.4	21.2	37,000	2,276,541
SOUTH CAROLINA	173,900	710,700	325,000	1,209,600	14.4	58.8	26.9	35,000	1,244,600
TENNESSEE	233,038	748,835	567,045	1,548,918	15.0	48.3	36.6	118,560	1,667,478
VIRGINIA	221,840	954,078	1,155,451	2,331,369	9.5	40.9	49.5	91,254	2,422,623
WEST VIRGINIA	91,749	498,783	224,789	815,321	11.3	61.2	27.6	40,037	855,358
GREAT LAKES	1,542,444	7,889,191	9,732,719	19,164,354	8.0	41.2	50.8	1,457,611	20,621,965
ILLINOIS	539,012	2,262,447	2,750,082	5,551,541	9.7	40.8	49.5	574,175	6,125,716
INDIANA	121,434	1,322,443	771,883	2,215,760	5.5	59.7	34.8	40,992	2,256,752
MICHIGAN	391,565	1,750,000	2,744,366	4,885,931	8.0	35.8	56.2	242,000	5,127,931
OHIO	346,900	1,710,700	2,159,600	4,217,200	8.2	40.6	51.2	335,900	4,553,100
WISCONSIN	143,533	843,581	1,306,788	2,293,902	6.3	36.8	57.0	264,544	2,558,446
PLAINS	617,230	3,384,758	3,815,654	7,817,642	7.9	43.3	48.8	361,933	8,179,575
IOWA	105,863	619,291	711,953	1,437,107	7.4	43.1	49.5	19,517	1,456,624
KANSAS	75,100	503,500	526,500	1,105,100	6.8	45.6	47.6	45,000	1,150,100
MINNESOTA	143,300	1,234,300	877,600	2,255,200	6.4	54.7	38.9	152,400	2,407,600
MISSOURI	185,778	678,089	972,101	1,835,968	10.1	36.9	52.9	57,110	1,893,078
NEBRASKA	51,089	157,778	437,500	646,367	7.9	24.4	67.7	60,406	706,773
NORTH DAKOTA	20,100	115,000	118,000	253,100	7.9	45.4	46.6	21,000	274,100
SOUTH DAKOTA	36,000	76,800	172,000	284,800	12.6	27.0	60.4	6,500	291,300
SOUTHWEST	1,061,838	5,019,497	3,600,695	9,681,990	11.0	51.8	37.2	616,635	10,298,625
ARIZONA	146,449	495,286	577,128	1,218,863	12.0	40.6	47.3	77,761	1,296,624
NEW MEXICO	89,989	452,795	126,427	669,211	13.4	67.7	18.9	18,282	687,493
OKLAHOMA	163,000	825,000	407,000	1,392,000	11.3	59.3	29.2	85,000	1,477,000
†TEXAS	665,400	3,246,376	2,490,140	6,401,916	10.4	50.7	38.9	435,592	6,837,508
ROCKY MOUNTAINS	232,197	1,501,852	1,525,079	3,259,128	7.1	46.1	46.8	214,701	3,473,829
†COLORADO	90,074	605,838	782,366	1,478,278	6.1	41.0	52.9	55,000	1,533,278
IDAHO	32,250	235,100	115,000	382,350	8.4	61.5	30.1	25,500	407,850
MONTANA	37,000	198,000	175,000	410,000	9.0	48.3	42.7	20,000	430,000
UTAH	54,423	383,738	273,457	711,618	7.6	53.9	38.4	86,735	798,353
WYOMING	18,450	79,176	179,256	276,882	6.7	28.6	64.7	27,466	304,348
FAR WEST	1,405,692	9,838,267	2,611,664	13,855,623	10.1	71.0	18.8	424,600	14,280,223
CALIFORNIA	1,091,700	7,797,625	1,455,500	10,344,825	10.6	75.4	14.1	275,000	10,619,825
NEVADA	23,240	153,620	120,190	297,050	7.8	51.7	40.5	19,600	316,650
OREGON	130,000	480,000	725,000	1,335,000	9.7	36.0	54.3	90,000	1,425,000
WASHINGTON	160,752	1,407,022	310,974	1,878,748	8.6	74.9	16.6	40,000	1,918,748
ALASKA	61,081	325,391	80,739	467,171	13.1	69.6	17.3	19,600	486,771
HAWAII	54,567	378,411	11,491	444,469	12.3	85.1	2.6	0	444,469

**See page 24.
†See notes, page 28.

From Estimates Of School Statistics, 1980-81.
Washington, D.C. National Education Association 1981

TABLE 11.--ESTIMATED EXPENDITURES FOR PUBLIC SCHOOLS, 1980-81 **

REGION AND STATE	TOTAL CURRENT EXPENDITURES FOR PUBLIC ELEMENTARY AND SECONDARY DAY SCHOOLS: AMOUNT (IN THOUSANDS)	TOTAL CURRENT EXPENDITURES FOR PUBLIC ELEMENTARY AND SECONDARY DAY SCHOOLS: PER PUPIL IN ADA	TOTAL CURRENT EXPENDITURES FOR PUBLIC ELEMENTARY AND SECONDARY DAY SCHOOLS: PER PUPIL IN ADM	CURRENT EXPENDITURES FOR OTHER PROGRAMS (IN THOUSANDS)	CAPITAL OUTLAY (IN THOUSANDS)	INTEREST ON SCHOOL DEBT (IN THOUSANDS)	TOTAL CURRENT EXPENDITURES, CAPITAL OUTLAY, AND INTEREST (IN THOUSANDS) COLS. 2,5,6,AND 7
1	2	3	4	5	6	7	8
50 STATES AND D.C.	$91,960,346	$2,445	$2,288	$1,591,610	$6,312,321	$2,152,929	$102,017,286
NEW ENGLAND	5,648,884	2,832	2,575	138,134	366,570	98,448	6,270,036
CONNECTICUT	1,481,500	2,934	2,715	13,338	25,500	23,600	1,543,600
MAINE	446,575	2,138	2,025	10,500	20,000	10,000	487,075
MASSACHUSETTS	2,858,375	3,186	2,780	101,773	289,572	43,741	3,293,461
NEW HAMPSHIRE	313,662	1,882	1,857	1,482	23,272	10,500	348,916
RHODE ISLAND	389,600	2,919	2,736	3,700	3,600	6,600	403,500
VERMONT	179,172	1,969	1,870	5,679	4,626	4,007	193,484
MIDEAST	19,730,004	3,149	2,857	446,231	646,954	568,259	21,391,448
DELAWARE	282,300	3,142	2,889	6,400	4,630	9,000	302,300
MARYLAND	1,933,968	2,846	2,598	24,987	72,814	27,259	2,081,048
NEW JERSEY	3,802,600	3,325	3,019	68,000	61,400	84,400	3,996,400
NEW YORK	8,742,000	3,467	3,120	175,000	330,000	225,000	9,492,000
PENNSYLVANIA	4,821,700	2,659	2,436	160,400	170,000	222,600	5,175,500
DIST. OF COLUMBIA	325,416	3,785	3,291	11,444	7,360	0	344,200
SOUTHEAST	17,579,950	1,949	NA	336,662	1,275,825	320,299	19,512,136
ALABAMA	1,118,900	1,593	1,516	3,700	92,000	11,000	1,225,600
ARKANSAS	673,371	1,609	1,525	1,900	93,406	17,833	786,510
FLORIDA	3,200,000	2,237	2,170	0	260,000	50,000	3,510,000
GEORGIA	1,870,200	1,901	1,787	19,200	66,500	31,100	1,967,000
KENTUCKY	1,223,380	1,998	1,854	6,672	65,444	33,000	1,308,496
LOUISIANA	1,400,000	1,972	1,811	4,500	92,300	28,300	1,525,100
MISSISSIPPI	795,271	1,771	1,688	6,300	72,741	6,465	880,477
NORTH CAROLINA	2,139,948	2,030	1,905	170,300	115,000	0	2,424,948
SOUTH CAROLINA	1,014,319	1,773	1,667	12,341	127,663	31,680	1,184,003
TENNESSEE	1,450,130	1,825	1,719	50,573	59,310	48,275	1,624,288
VIRGINIA	1,971,352	2,115	1,971	37,724	197,528	54,520	2,261,124
WEST VIRGINIA	715,079	2,026	NA	15,252	73,133	8,126	812,590
GREAT LAKES	17,809,816	2,550	NA	254,541	933,841	478,612	19,476,810
ILLINOIS	4,821,417	2,803	2,586	42,592	496,396	149,996	5,410,401
INDIANA	1,976,092	2,031	1,901	21,601	116,510	61,993	2,176,196
MICHIGAN	5,091,967	2,958	NA	76,103	215,000	156,000	5,539,070
OHIO	3,867,480	2,143	1,985	66,030	93,100	69,300	4,095,800
WISCONSIN	2,052,940	2,686	2,485	48,245	112,835	41,323	2,255,343
PLAINS	6,870,928	2,437	NA	141,202	514,150	132,761	7,659,040
IOWA	1,289,543	2,593	2,457	0	137,925	17,635	1,415,103
KANSAS	974,200	2,693	2,531	45,400	78,500	18,100	1,116,200
MINNESOTA	1,935,600	2,745	2,581	54,300	132,600	46,600	2,169,100
MISSOURI	1,595,683	2,101	NA	22,400	90,030	30,000	1,738,083
NEBRASKA	621,502	2,353	2,248	7,202	55,725	14,233	698,662
NORTH DAKOTA	215,000	1,934	1,915	9,000	20,500	3,900	248,400
SOUTH DAKOTA	239,400	1,995	1,884	2,900	28,900	2,300	273,500
SOUTHWEST	7,665,284	1,957	1,839	103,197	1,232,660	261,403	9,262,544
ARIZONA	1,170,672	2,444	2,323	0	62,389	34,283	1,267,344
NEW MEXICO	554,974	2,153	2,045	61,377	121,970	7,122	745,443
OKLAHOMA	1,200,000	2,202	2,091	17,000	130,000	12,500	1,359,500
TEXAS	4,739,638	1,798	1,682	24,820	918,301	207,498	9,890,257
ROCKY MOUNTAINS	2,686,476	2,144	NA	17,794	388,846	76,997	3,170,113
COLORADO	1,193,840	2,348	2,261	2,357	74,376	36,100	1,306,373
IDAHO	337,900	1,780	NA	165	46,000	8,100	392,165
MONTANA	358,850	2,550	2,392	9,150	37,000	4,000	404,000
UTAH	572,860	1,777	1,681	10,816	196,430	22,744	802,860
WYOMING	223,026	2,437	2,290	606	35,032	4,051	264,715
FAR WEST	13,142,390	2,570	2,499	136,300	889,225	190,309	14,369,224
CALIFORNIA	9,708,390	2,513	2,477	75,300	396,900	105,000	10,285,290
NEVADA	281,520	2,059	1,922	13,300	52,150	13,560	360,530
OREGON	1,245,000	2,981	2,767	8,000	128,219	25,000	1,406,219
WASHINGTON	1,927,480	2,737	2,566	40,000	302,956	46,749	2,317,185
ALASKA	404,679	5,220	4,731	6,432	43,850	23,834	477,995
HAWAII	381,935	2,575	2,350	12,917	31,830	2,000	427,852

**See page 34.
†See notes, page 35.